

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:

Voellmicke et al.

Application No: 09/771,433

Filing Date:

January 26, 2001

Entitled:

GRAFT DELIVERY SYSTEM

Atty. Docket No:

DEP0530

Group Art Unit:

3732

Examiner:

Certificate of Mailing (37 C.F.R. 1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service Post Office as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1450, Mail Stop: Petitions, Alexandria, Virginia 22313-1450 on the date set forth below.

12, 2004

Date of Signature and Mail Deposit

By: Amy Schick

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

> PETITION UNDER 37 CFR 1.181(a) TO ACCEPT TIMELY FI RESPONSE TO NOTICE TO FILE MISSING PARTS AND TO WITHDR HOLDING OF ABANDONMENT

Dear Sir:

Applicants received a Notice of Abandonment Under 37 CFR 1.53 (f) OR (g) dated January 20, 2004. The Notice stated that applicant failed to reply to the Notice to File Missing Parts mailed on May 3, 2001.

Applicants contend that the application is not in fact abandoned and hereby notify the Patent Office that Applicants timely filed a Petition for Extension of Time and a Submission of Combined Declaration and Power of Attorney on August 17, 2001, in response to the Notice to File Missing Parts. Accordingly, Applicants respectfully request withdrawl of the holding of abandonment in the above-captioned case.

Applicants respectfully request that the Response be considered timely filed in accordance with 37 C.F.R. §1.8 for the following reasons:

The undersigned Attorney for Applicants submits that the Response was deposited with the United States Postal Service Post Office as first class mail in an envelope addressed to Box Missing Parts, Commissioner for Patents, Washington, D.C.. 20231, on August 17, 2001. A copy of the Petition for Extension of Time and Submission of Combined Declaration and Power of Attorney are enclosed, each of which includes an executed Certificate of Mailing pursuant to 37 C.F.R. §1.8.

Applicants also enclose a copy of the postcard returned from the United States Patent and Trademark office indicating that the Response was received on August 20, 2001.

Applicants submit that the Response was filed in a timely manner and was received by the Patent and Trademark Office and that the application became abandoned through no fault of their own. A copy of the 1/20/04 Notice of Abandonment is also attached.

Accordingly, Applicants respectfully request entry of this Response as being timely filed on August 17, 2001. As so entered, no fee is believed to be due in connection with the filing of this paper. Applicants encourage the Examiner to telephone the undersigned in the event that such communication might expedite prosecution of this matter.

Respectfully submitted,

Date: 3-12-04

Thomas M. DiMauro

Attorney for Applicant (Reg. No. 35,490)

Thomas M. D. Maries

DePuy Spine, Inc. 1 Johnson & Johnson Plaza New Brunswick, NJ 08933 (508) 880-8401

Fax: (508)828-3789



DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "Graft Delivery System", the specification of which

(check one)	\square is attached hereto.	
	was filed on January 26, 2001 as	
	Application Serial No. 09/771433	
	and was amended on (if applicable)	

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, \$119 (a)-(d) or \$365(b) of any foreign application(s) for patent or inventor's certificate, or \$365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

MAR 2 2 2004
TECHNOLOGY CENTER HOUSE

Prior Foreign Application(s):

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. 119
	·		YES NO
			YES NO
			YES NO

I hereby claim the benefit under Title 35, United States Code, \$119(e) of any United States provisional application(s) listed below:

(Application Number)	(Filing Date)
(Application Number)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, \$120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, \$112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, \$1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application	Serial	No.	Filing	Date	Status
Application	Serial	No.	Filing	Date	Status

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith as well as to file equivalent patent applications in countries foreign to the United States including the filing of international patent applications in accordance with the Patent Cooperation Treaty: Steven P. Berman (Reg. #24,772), Andrea L. Colby (Reg. #30,194), Paul A. Coletti (Reg. #32,019), Matthew S. Goodwin (Reg. #32,839), Ralph R. Palo (Reg. #29,486), Bernard F. Plantz (Reg. #32,091), Joseph F. Shirtz (Reg. #31,880), Michael Stark (Reg. #32,495), Mark R. Warfield (Reg. #33,463), and Thomas M. DiMauro

(Reg. #35,490) One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

Address all telephone calls to Thomas M. DiMauro at telephone no. (508) 880-8401.

Address all correspondence to Philip S. Johnson, One Johnson & Johnson Plaza, New Brunswick, NJ 08933-7003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Signature:
Full Name of Sole
 or First Inventor

Date: 06- Aug-01

Citizenship: U.S.

Residence: One Regency Plaza, #304, Providence, RI 02903 Mailing Address: One Regency Plaza, #304, Providence, RI 02903

Inventor's Signature:
Full Name of Second Joint
 Inventor, If Any

Stephen W. Connolly

Citizenship: U.S.

Residence: 622 Massapoag Avenue, Sharon, MA 02067

Mailing Address: 622 Massapoag Avenue, Sharon, MA 02067

Inventor's Signature:
Full Name of Third Joint
 Inventor, If Any

Sudhakar Kadiyala

Date: 8/02/01

Citizenship: India

Residence: 28 Cranberry Lane, South Easton, MA 02375

Mailing Address: 28 Cranberry Lane, South Easton, MA 02375

(Supply similar information and signature for fourth and subsequent joint inventors.)

<pre>Inventor's Signature: Full Name of Fourth Joint</pre>	Scott P. Bruder Date: 8/3/0/
Citizenship: U.S. Residence: 33 Crown Point Road, Mailing Address: 33 Crown Point	Sudbury, MA 01776 Road, Sudbury, MA 01776
<pre>Inventor's Signature: Full Name of Fifth Joint Inventor:</pre>	David Urbahns Date: 8/03/01
Citizenship: U.S. Residence: 4 Copper Kettle Lane, Mailing Address: 4 Copper Kettle	Barrington, RI 02806 Lane, Barrington, RI 0280
<pre>Inventor's Signature: Full Name of Sixth Joint Inventor:</pre>	Kazuna Tanaka Date:
Citizenship: JP Residence: Five Frontier Road, C Mailing Address: Five Frontier Ro	
Inventor's Signature:	·

Citizenship: U.S.

Inventor:

Full Name of Seventh Joint

Residence: 248 Wilton Road, Westport, CT 06880

Mailing Address: 248 Wilton Road, Westport, CT 06880

Jeffrey Kapec

Date:_

Inventor's Signature:		
Full Name of Eighth Joint Inventor:	Yukiko Naoi	
	Date:	

Citizenship: JP

Residence: 137 Central Park North, #6D, New York, NY 10026

Mailing Address: 137 Central Park North, #6D, New York, NY 10026



DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "Graft Delivery System", the specification of which

(check one)	☐ is attached hereto.
	was filed on January 26, 2001 as
•	Application Serial No. 09/771433
	and was amended on (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

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I hereby claim foreign priority benefits under Title 35, United States Code, \$119 (a)-(d) or \$365(b) of any foreign application(s) for patent or inventor's certificate, or \$365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

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MAR 2 2 2004

TECHNOLOGY CENTER R3700

Prior Foreign Application(s):

Country	Application Number	Date of Filing	Priority Under 35 t	
			☐ YES	NO
			☐ YES	□ NO
			☐ YES	☐ NO

I hereby claim the benefit under Title 35, United States Code, \$119(e) of any United States provisional application(s) listed below:

(Application Number)	(Filing Date)
· ·	
(Application Number)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, \$120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, \$112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, \$1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Filing Date	Status
Application Serial No.	Filing Date	Status

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith as well as to file equivalent patent applications in countries foreign to the United States including the filing of international patent applications in accordance with the Patent Cooperation Treaty: Steven P. Berman (Reg. #24,772), Andrea L. Colby (Reg. #30,194), Paul A. Coletti (Reg. #32,019), Matthew S. Goodwin (Reg. #32,839), Ralph R. Palo (Reg. #29,486), Bernard F. Plantz (Reg. #32,091), Joseph F. Shirtz (Reg. #31,880), Michael Stark (Reg. #32,495), Mark R. Warfield (Reg. #33,463), and Thomas M. DiMauro

(Reg. #35,490) One Johnson & Johnson Plaza, New Brunswick, NJ 08933.

Address all telephone calls to Thomas M. DiMauro at telephone no. (508) 880-8401.

Address all correspondence to Philip S. Johnson, One Johnson & Johnson Plaza, New Brunswick, NJ 08933-7003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Inventor's Si	anature.	
Full Name of or First In	Sole	John C. Voellmicke
Citizenship: Residence: Mailing Addre	One Regency Plaza, #3	Date: 304, Providence, RI 02903 #304, Providence, RI 02903
Inventor's Si		
Full Name of Inventor, If	· · · · · · · · · · · · · · · · · · ·	Stephen W. Connolly
Citiconobio		Date:
Citizenship: Residence: Mailing Addre	0.S. 622 Massapoag Avenue, ss: 622 Massapoag Ave	Sharon, MA 02067 nue, Sharon, MA 02067
Inventor's Sie	gnature:	
Full Name of Inventor, If	Third Joint	Sudhakar Kadiyala
	<u>-</u> .	Date:
Citizenship: Residence:	India 28 Cranberry Lane, Son	uth Easton, MA 02375

(Supply similar information and signature for fourth and subsequent joint inventors.)

Mailing Address: 28 Cranberry Lane, South Easton, MA 02375

Inventor's Signature: Full Name of Fourth Joint Inventor:	Scott P. Bruder
	Date:
Citizenship: U.S. Residence: 33 Crown Point Road, Mailing Address: 33 Crown Point	Sudbury, MA 01776 Road, Sudbury, MA 01776
<pre>Inventor's Signature: Full Name of Fifth Joint Inventor:</pre>	David Urbahns
	Date:
Citizenship: U.S. Residence: 4 Copper Kettle Lane, Mailing Address: 4 Copper Kettle	Barrington, RI 02806 Lane, Barrington, RI 02806
<pre>Inventor's Signature: Full Name of Sixth Joint Inventor:</pre>	Kazuna Tahaka Date: 08/08/0/
Citizenship: JP Residence: Five Frontier Road, Co Mailing Address: Five Frontier Roa	sCob, CT 06807 d, CosCob, CT 06807
<pre>Inventor's Signature: Full Name of Seventh Joint</pre>	Date: August 8, Zay

Residence: 248 Wilton Road, Westport, CT 06880 Mailing Address: 248 Wilton Road, Westport, CT 06880 Yukiko Naoi

Date: August 8, 200

Citizenship: JP

Residence: 137 Central Park North, #6D, New York, NY 10026

Mailing Address: 137 Central Park North, #6D, New York, NY 10026

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

pplicants:

Voellmicke et al.

Serial No.:

09/771,443

Art Unit:

Filed

January 26, 2001

Examiner:

For

Graft Delivery System

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on

August 17, 2001

DePuy AcroMed, Inc.
(Name of applicant, assignee, or Registered Representative

August 17, 2001

Commissioner For Patents Washington, D.C. 20231

PETITION FOR EXTENSION OF TIME AND AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT THEREFOR

Dear Sir:

Applicant(s) petition(s) the Commissioner of Patents and Trademarks to extend the time for response to the Office Action dated May 3, 2001 for two (2) month(s) from July 3, 2001 to September 3, 2001. An Executed Declaration responding to the aforesaid Office Action is being filed concurrently herewith.

Please charge Deposit Account No. 10-0750/DEP 530/TMD in the name of Johnson & Johnson for the cost of filing this Petition. Three copies of this Petition are enclosed.

Respectfully submitted,

Thomas M. DiMauro Reg. No. 35,490

Attorney for Applicant(s)

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(508) 880-8401
DATE:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Voellmicke et al.

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09/771,443

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Respectfully submitted,

Thomas M. DiMauro Reg. No. 35,490

Attorney for Applicant(s)

Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 (508) 880-8401 DATE:

RECEIVED

MAR 2 2 2004

TECHNOLOGY CENTER R3700



United States Patent and Trademark Office

COMMISSIONER FOR PATENTS UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NUMBER

FIRST NAMED APPLICANT

ATTORNEY DOCKET NUMBER

09/771,433

A C. Voelknicke J& J PAT. DET SECT

DEP 530

CONFIRMATION NO. 8044

Date Mailed: 05/03/2001

OC00000000060361211

Philip S. Johnson, Esq. Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

A copy of this notice MUST be returned with the reply.

RECENT

MAR 2 2 2004

TECHNOLOGY CENTER IN

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

- Need Petition
For Extension of
Time

1DY FORWARDED TO ASSIGNEE

------ CEIL SURMAN CODY FORWARDED TO ASSIGNEE

- when: LEIL SURMAN



United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Fotent and Trademark Office. Address COMMESSIONER FOR PATENTS PU Box 1450 Alexandra Virginio 22313-1440 www.upinc.gov

APPLICATION NUMBER

FILING OR 371(C) DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

09/771,433

01/26/2001

John C. Voellmicke

DEP 530

Philip S. Johnson, Esq. Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003



CONFIRMATION NO. 8044
ABANDONMENT/TERMINATION
LETTER
OC00000011713943

Date Mailed: 01/20/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/03/2001.

· No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(I); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

A copy of this notice MUST be returned with the reply.

Mathaniel R. Parties

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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TECHNOLOGY CENTER RECO

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ITED STATES PATENT AND TRAI

Applicants:

Voellmicke et al.

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January 26, 2001

Examiner:

For

Graft Delivery System

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August 17, 2001

(Date of Deposit)

DePuy AcroMed, Inc.

(Name of applicant, assigned, or Registered Representative)

Karen M. Day

August 17, 2001

(Date of Signature)

BOX MISSING PARTS Assistant Commissioner for Patents Washington, D.C. 20231

TECHNOLOGY CENTER R3700

SUBMISSION OF COMBINED DECLARATION AND POWER OF ATTORNEY

Dear Sir:

Pursuant to Rule 53(f) and Rule 54, please find enclosed a Combined Declaration and Power of Attorney for the application of Voellmicke et al. entitled Graft Delivery System attorney Docket No. DEP 530, to complete, pursuant to Rule 51, this application filed on January 26, 2001 by Express Mail pursuant to Rule 10. As required, a copy of the Notice to File Missing Parts of Application is also attached.

Please charge Johnson & Johnson Deposit Account 10-0750/DEP530/TMD in the amounts of \$130.00 for submission of the Declaration pursuant to Section 1.16(e). The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 10-0750/DEP530/TMD. This sheet is submitted in triplicate.

Respectfully submitted,

Thomas M. DiMauro Reg. No. 35,490

Attorney for Applicant(s)

Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 (508) 880-8401



SERIAL NO DOCK	ET NO. DEP 530 BY TMD
APPLICATION OF Voellmicke et al.	MAILED: 8/17/01
ENTITLED Graft Delivery System	
THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. STAMPED HEREON:	PATENT OFFICE ON THE DATE
☐ AFFIDAVIT ☐ DECLARATION	EXTENSION OF TIME
□ AMENDMENT	☐ NOTICE OF APPEAL
☐ ASSIGNMENT FOR RECORDING	DOATH OR DECLARATION
□ BRJEF	EPPOWER OF ATTORNEY
CI CHARGE TO DEPOSIT ACCOUNT 10-0750	
DRAWINGS	PRELIMINARY STATEMENT
DISSUE FEE TRANSMITTAL O PE	PRIORITY DOCUMENT
DISSUE PEE IRANSMITTAL	STATUS INQUIRY
ELETTER /	SPECIFICATION PGS
PCT FILING AUS 2 0 2001	CLAIMS
□IDS · FORM-1449	<u> </u>
DIDS · FORM-1449 FORM 113783 REV. 786	S /
TANEMARY .	7

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TECHNOLOGY CENTL

FAX: 7325245575